

Youth Programs – Oakland Military Institute Response to Draft Audit Report

MDIRO Finding 1: The CMD reimbursed OMI over \$1.1 million for unallowable civilian personnel costs and operating expenditures.**1-A. Civilian Personnel hired in lieu of SAD personnel - \$738,785.32**

MDIRO Recommendation: The CMD should recoup \$738,785.32 from the YPD's OMI budget for the unallowable civilian personnel costs claimed and reimbursed.

YPD Response: The YPD believes the \$738,785.32 should not be reimbursed because it was CMD YPD's responsibility to provide military science instruction to the cadets. The YPD utilized the personnel services contract as a short term solution to the shortage of certificated instructors available through the SAD system. The YPD attempted to exercise appropriate fiscal constraint by utilizing salary savings from vacant SAD positions to reimburse OMI for the Character Education and CaCC instructors. The YPD believes the funding was expended in compliance with the original BCP and was not misdirected or misused.

Leadership Development and Character Education have always been elements of the military science program at OMI. Prior to hiring the civilian Character Education instructors the YPD coordinated with the previous State Comptroller regarding the personnel services contract at OMI. The YPD was advised that as long as the contract was of a temporary nature, the contract was permissible. The intent of the YPD personnel services contract was to enhance the military science curriculum in the area of character development. The civilian character education teachers worked as an element of the military staff. The YPD ended the personnel services contract for the character education teachers in June 2007. Prior to hiring the CaCC instructors, the YPD coordinated with the State Personnel office and the CAAG-SJA office. The SJA advised the YPD to have OMI be the hiring agent for the CaCC personnel. It is common practice for the School District or individual school to be the hiring agent for CaCC personnel.

The original BCP establishing the academy states that military subjects will be modeled after the CaCC 7-12 grade curriculum. The YPD's intent in hiring the CaCC personnel was to provide the best possible military science curriculum taught by the best qualified instructors. As noted in the MDIRO report, "the CaCC employees held previous CaCC positions in other high schools prior to their employment with OMI." This level of experience working with youth in a public school setting is not typically achieved via the SAD open announcement system. In addition to previous experience working with youth in a school setting, the CaCC Officers also possessed the Designated Subjects Teaching Credential for Basic Military Drill which allowed the OMI cadets to receive High School credit for their military science and physical education classes.

The CaCC Officers were hired because there is no provision for NCO's in the CMVC as it applies to the CaCC. To remain within the BCP budgetary guidelines, the YPD capped the pay of the CaCC military science instructors at the equivalent of the NCO rank of E-6/E-7. The YPD was not aware of the potential conflict of members of the unorganized militia (CaCC) supervising members of the organized militia on SAD when the CaCC personnel were hired at OMI via a personnel services contract.

Six of the seven CaCC personnel at OMI have since joined the SMR. They subsequently applied for open vacancy announcements at OMI and were selected for hire as CMD SAD employees. One of the CaCC personnel chose to join the California Army National Guard. This individual is scheduled to report for a 12 week active duty OCS course (April 08).

At OMI start up, the CMD through the BCP Process (2000-01 and 2002-03) provided extensive administrative and technical support to OMI as evidenced by the establishment of the following SAD positions: (Fiscal Officer, Fiscal NCO, Information Systems NCO, 2 Logistics NCO's, 2 Admin NCO's and a Personnel NCO).

Due to budget reductions, the services provided to OMI by the CMD YPD were gradually passed on to the OMI Administration as CMD YPD positions were selectively eliminated. Despite the loss of these positions, the need for administrative and technical support remained. When the CMD's third BCP was approved, a contract was established to reimburse OMI for a portion of the administrative and technical support previously provided by CMD YPD. The YPD reimburses OMI for administrative and technical support through the O&E portion of the contract. The YPD submits that the reimbursement for administrative and technical support complies with the original legislative intent and the amount reimbursed is less than the cost of the eight CMD YPD personnel previously approved by the legislature through the BCP process.

The YPD agrees that future CMD contracts for administrative and technical operating expense reimbursements should be based on a pro rata share of expenses and a narrower definition of allowable costs. The 19 YPD military staff at OMI equates to approximately 30% of the total OMI staff (62).

Based on the above information, the YPD believes the funding was expended in compliance with the legislative intent and was not misdirected or misused. Decrementing the YPD OMI budget by the amount recommended will force the YPD to terminate approximately 40% of the YPD OMI staff. The remaining YPD OMI staff will be unable to meet the CMD mission requirements at OMI.

MDIRO Recommendation: The CMD's YPD should immediately amend the current contract between the CMD and OMI regarding reimbursement of personnel services to meet Government Code 19130 requirements for "emergency" services.

YPD Response: *The CMD YPD will immediately prepare an amendment to the current contract between the CMD and OMI. The YPD will also staff a recommendation through the CMD Executive Staff defining the appropriate level of review and approval needed for future personnel services contracts.*

Once the amendment is prepared by the YPD and approved by the Director, Joint Staff (DJS) the YPD will submit the amendment to the State Comptroller and Contracting Officer who will in turn forward the amendment to DGS for approval. Upon approval, the contracting officer will notify OMI that the CMD is giving 30 days notice that it has exercised the option to amend the contract to reflect a reduction of funds.

1-B. Unallowable Operating Expenditures - \$375,349.20

MDIRO Recommendation: The CMD should recover \$375,349.20 from the YPD's OMI budget for the unallowable operating expenses.

YPD Response: *The YPD believes the amount reimbursed for facility operations and utilities was reasonable and fair. While the funding appears to be a transfer payment, it was not a disproportionate share of the total OMI facility/utility expenditures.*

The YPD notes that in the original BCP dated 30 Dec 1999, line item funding in the amount of \$95,000 was set aside for facility operations and \$13,000 was set aside for utilities. The second BCP dated 12 September 2001 included an additional \$10,000 for facilities maintenance and cleaning. The BCP's for OMI were cumulative in their scope to allow for the incremental growth of students, staff and facilities. Allowing for annual inflation, the total amount reimbursed to OMI for facility operations and utilities is within the amount specified in the BCP's approved by the legislature. The YPD requests that the facility and utility operating expense reimbursement costs be determined as allowable expenses.

The YPD agrees that future CMD contracts for facility and utility operating expense reimbursements should be based on a pro rata share of expenses. The YPD military staff at OMI occupies approximately 28% (12,680 sq. ft.) of the total facility space (45,814 sq. ft.) at OMI. Once a determination has been made by CMD Executive staff regarding the facility and utility reimbursements, the YPD will immediately amend the contract to reflect a pro rata share of the expenses and a narrower definition of allowable operating expense categories and amounts.

The YPD requests that the previous security expenditures be determined as allowable expenses. The YPD further requests approval to reimburse OMI for a pro rata share of security operating expenses. OMI invested more than a million dollars to renovate facilities at the new campus. As the renovations neared completion, vandals struck the campus causing more than \$20,000 in damage. The damage was extensive and involved the 4 military science classrooms. Fortunately there was no CMD YPD property in the classrooms. OMI has since hired security to protect the facilities and property. The need for security occurred after the 2005/06 BCP was approved.

The YPD requests that the sports equipment and related costs for the OMI cadets be approved as an allowable operating expense. In the original letter of intent the CMD took responsibility for fostering the physical fitness program at OMI. The YPD military staff provides the physical fitness instruction as a subset of the military science curriculum. The parent student handbook requires cadet participation in intramural sports that is organized by military company and led by the military staff. A significant number of the military staff also coach OMI teams in interscholastic sports.

As stated above, the YPD believes the physical fitness program is an integral piece of the CMD YPD mission at OMI. As such, the Bus Trip to the Baseball sporting event took place because the Oakland A's asked the OMI cadets to unfurl the extremely large US Flag during opening ceremonies. The YPD considers the cadets participation to be both an opportunity for the cadets to provide service to the community and an opportunity to render honors to their country which is clearly an element of the CMD mission at OMI. The YPD agrees that the science trip were OMI expenses. The YPD agrees and will implement procedures to ensure that all future CMD YPD sponsored bus trips support the CMD YPD mission at OMI and are approved in advance.

The YPD reimbursed OMI for liability and property insurance that covers the CMD's risk in operating the school. As stated in the audit report, the CMD and Mayor established this requirement in the original MOU between the two parties. In the original BCP \$24,000 was set aside for liability insurance. This insurance does not cover the students at OMI nor does it cover workman's compensation. The YPD requests that the funds expended for the liability insurance policy be approved as an allowable operating expense. The YPD agrees to notify

OMI that the CMD has satisfactory liability insurance through the State of California and will no longer reimburse OMI for insurance premiums.

The previous Commandant and Acting Commandant left OMI at the beginning and middle of the school year thereby leaving a void in the YPD leadership at OMI. The YPD reimbursed OMI for LTC (CaCC) Mark Ryan's Air travel and car rental because he was serving as a consultant to the CMD YPD and was specifically tasked with developing the following programs at OMI: Leaders of Character, TAC Teams (the Concept of Companies taught by Company Advisors), Cadet Citizenship Program and the Yearly Training Calendar. Each of these tasks was accomplished by LTC Ryan during his consultation visits to OMI. These programs were successfully implemented at OMI at the beginning of the current school year. The YPD requests that the air travel and car rental be approved as an allowable operating expense. The YPD agrees that future consultation and training provided to the YPD military staff should be paid for directly through the YPD OMI budget.

The School Board at OMI has always been the final authority at OMI with regards to student discipline. However, the CMD YPD has always had the responsibility for implementing and enforcing the cadet code of conduct and subsequent student discipline. The YPD reimbursed OMI for a portion of the legal services because the OMI lawyer has provided legal opinions and advice to the YPD leadership at OMI on very serious student discipline matters. The YPD will ensure that OMI understands that legal services are the responsibility of the OMI Administration and that CMD reimbursement for legal services is not allowable.

The YPD concurs that the Independent Financial Audit, the School District Administrative Charges, and Unreimbursed Student Meals are expenses of the OMI School Administration. The YPD will immediately amend the current contract to ensure these unallowable operating expenses are eliminated from future OMI reimbursement requests. The YPD will develop a policy and procedures manual for reviewing and paying reimbursement contract invoices to ensure unallowable expenses are denied payment.

When OMI was initially established, the CMD YPD provided an Information Systems NCO to the academy for IT support and maintenance. During previous State budget reductions the CMD eliminated the position. The YPD reimbursed OMI for IT Maintenance because access for the YPD staff is provided via the OMI network and not the CNG network. The YPD requests that IT support and maintenance be approved as an allowable operating expense reimbursed on a pro rata basis. As mentioned previously, the YPD staff occupies 28% of the space at OMI. The YPD will utilize this figure when determining future operating expense reimbursements.

The YPD concurs that the cleaning of a cadet uniform is primarily the cadet's responsibility. However, when a cadet is dismissed from the school the uniforms are turned in. If the uniform is serviceable, the uniform is cleaned (for health reasons) before it is re-issued to another cadet. The YPD believes that cadet uniform cleaning is an allowable operating expense.

MDIRO Recommendation: The CMD's YPD and CMD should also review BCP language regarding the intent and nature of the operating expense categories and modify the budget line item names to reflect realistic budget categories and amounts. Provide a narrower definition of those costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations. Include a provision in the BCP language that the funding is not only limited to availability but subject to CMD approval as necessary.

YPD Response: The YPD will immediately amend the current contract including the operating expense categories and budget line item names to reflect realistic budget categories and amounts. The YPD will utilize the previous BCP's and the revised MOU once approved as the source documents for determining the intent and nature of the operating expense categories.

The YPD has determined that the military staff occupies 28 percent of the facilities (12,680 sq. ft. of the total 45,814 sq. ft.) at OMI and the military staff makes up 30 percent of the total staff (19 of the total 62 personnel). The YPD will utilize this information as a basis for calculating and defining CMD obligations. The YPD will also provide a narrower definition the costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations.

The YPD will ensure future MOU's include language that CMD funding is not only limited to availability but subject to CMD approval as well.

MDIRO Recommendation: Immediately develop and implement a written cost allocation agreement between the CMD and OMI documenting the YPD's realistic and equitable share of OMI's operating expenses, based upon the approved funding in the most current BCP.

YPD Response: The YPD will immediately develop and implement a written cost allocation agreement between the CMD and OMI that documents the YPD's realistic and equitable share of OMI's operating expenses, based upon approved funding in the three BCP's and revised MOU. As previously noted, the BCP's for OMI were cumulative in there scope to allow for the incremental growth of students, staff and facilities.

MDIRO Recommendation: The YPD and CMD executive staff should review and revise the current reimbursement contract to ensure CMD pays its equitable share of operating expenditures as determined in the above recommendation.

YPD Response: The CMD YPD will immediately prepare an amendment to the current contract between the CMD and OMI that clarifies and defines the CMD YPD's equitable share of allowable operating expenses.

Once the amendment is prepared by the YPD and approved by the Director, Joint Staff (DJS) the YPD will submit the amendment State Comptroller and Contracting Officer who will in turn forward the amendment to DGS for approval. Upon approval, the contracting officer will notify OMI that the CMD is giving 30 days notice that it has exercised the option to amend the contract to reflect a reduction of funds.

MDIRO Recommendation: The YPD should review and report on the insurance coverage necessary among all of the insurance policies in effect regarding OMI, and determine whether the CMD is paying for duplicate coverage by reimbursing OMI for liability insurance premiums.

YPD Response: The YPD reimbursed OMI for liability and property insurance that covers the CMD's risk in operating the school. As stated in the audit report, the CMD and Mayor established this requirement in the original MOU between the two parties. This insurance does not cover the students at OMI nor does it cover workman's compensation. The YPD requests that the previous insurance reimbursements be approved as an allowable operating expense. The YPD agrees to notify OMI that the CMD has satisfactory liability insurance through the State of California and will no longer reimburse OMI for insurance premiums.

The YPD entered into a separate agreement for insurance at the direction of the previous CMD Executive staff. This insurance policy was established to cover the CMD's risk when OMI cadets participate in training at military installations and includes coverage for students and CMD staff. Examples of training led by CMD YPD staff include: Summer Camp, Leadership Schools, Bivouacs, Drill Competitions, etc. The YPD requests that this insurance policy be approved as an allowable operating expense.

MDIRO Finding 2: There is no current Memorandum of Understanding (MOU) between the CMD and OMI.

MDIRO Recommendation: To ensure that CMD and OMI have a complete understanding and agreement regarding the roles and functions of the military presence at the academy, an MOU should be finalized and implemented immediately.

YPD Response: *The YPD provided a revised MOU to the CAAG-SJA on 18 Jan 2008 that incorporated the recommended changes the JAG requested in a previous meeting. The Revised MOU is being forwarded to MDIRO with this response for review and coordination. The Revised MOU is being forwarded simultaneously to the CMD Executive Staff for review, comment and approval. Once the MOU has been approved by CMD Executive Staff, the YPD will present the MOU to the OMI Board of Directors for review, comment and ultimately signature. The YPD estimates that MOU will be finalized within 45 days from the time the CMD Contracting Officer releases the document for signatures.*

MDIRO Finding 3: The YPD approved payment for OMI reimbursement billings without reviewing for mathematical accuracy and supporting documentation (vendor receipts, invoices, and/or statements).

MDIRO Recommendation: The YPD should immediately implement internal controls to review all reimbursement documents for mathematical accuracy as well as support documentation (invoices, statements and invoices) prior to approving payment. Additionally the YPD should develop a policies and procedures manual for reviewing and paying reimbursement contract invoices. The manual should include the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements.

YPD Response: *The YPD Director and Resource Management NCO will review all reimbursement documents for mathematical accuracy and supporting documentation prior to approving payment. The YPD has developed a draft a policies and procedures manual for reviewing and paying reimbursement contract invoices that includes the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements. The YPD draft policies and procedures manual is being submitted for review as an attachment to this response.*

To validate accuracy and compliance, the YPD requests that the State Comptroller's Office perform an annual spot check of YPD OMI reimbursement documents. The YPD will ensure both the amended contract and future contracts include the requirement to submit support documents along with the invoices.

MDIRO Finding 4: The CMD may have made duplicate payments to a CaCC member.

MDIRO Recommendation: The YPD should investigate the possible duplicate payment to the CaCC member and advise the CMD management when and how the issue is resolved.

YPD Response: No, duplicate payment was made. The individual CaCC instructor used personal leave time from OMI to perform duties for the CaCC in preparation of the Individual Major Award's competition and ceremony being conducted in Sacramento.

MDIRO Finding 5: The YPD is not exercising sufficient controls over computer equipment purchased with state funds.

MDIRO Recommendation: The YPD should implement procedures to ensure that computer equipment is properly stored disposed of, and access restricted to military cadre program personnel and authorized users.

YPD Response: The YPD OMI military leadership and logistics NCO have completed a 100% inventory of the CMD YPD computer equipment and reconciled the inventory with the property book ensuring each computer is accurately accounted for. In addition, the logistics NCO has updated all computer equipment hand receipts with the authorized users. Each laptop is now secured with a laptop lock/cable for added security IAW CNG directive. The computers at OMI are not linked to the CNG network. There are computers that belong to the school through school purchases or donations that are awaiting disposition through an electronic waste/recycling center, but there are no CMD YPD computers awaiting disposition. The IT room is a secure work space with controlled access. The YPD leadership will ensure periodic formal and informal inspections are performed to ensure the computer equipment is properly safeguarded.